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4 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
5 AT TACOMA

6 OKILA ULMER,

7 Plaintiff,

8 v.

9 BONNEVILLE BILLING,

10 Defendant.

CASE NO. C11-5634BHS

ORDER GRANTING  
DEFENDANT'S MOTION TO  
DISMISS

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12 This matter comes before the Court on Defendant Bonneville Billing's ("Billing")  
13 motion to dismiss. Dkt. 12. Billing's motion seeks dismissal of all of Plaintiff Okila  
14 Ulmer's ("Ulmer") claims alleged in her complaint. *Id.* Ulmer has failed to file a  
15 response to the motion.

16 Rule 7(b)(2) of the Local Rules states that "[i]f a party fails to file papers in  
17 opposition to a motion, such failure may be considered by the court as an admission that  
18 the motion has merit." However, in considering a motion for summary judgment, the  
19 motion should not be granted simply because there is no opposition, even if the failure to  
20 oppose violated a local rule. *See Henry v. Gill Indus.*, 983 F.2d 943, 950 (9th Cir. 1993).  
21 Rather, the moving party must demonstrate the absence of genuine issues of material fact,  
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1 regardless of whether the party against whom the motion for summary judgment is  
2 directed has filed any opposition. *See Cristobal v. Siegel*, 26 F.3d 1488, 1491 (9th Cir.  
3 1994). The Court applies the same analysis when a party fails to respond to a motion to  
4 dismiss in that the moving party must demonstrate why the plaintiff has failed to state a  
5 claim in order for the motion to be granted.

6 Here, Billing filed a motion to dismiss in which it demonstrates Ulmer's failure to  
7 state a claim upon which relief could be granted and Ulmer has failed to file an  
8 opposition. Accordingly, the Court concludes that Billing's motion to dismiss should be  
9 granted.

10 The Court, having considered the pleadings filed in support of the motion and the  
11 remainder of the file, does hereby find and **ORDER** that Billing's motion to dismiss  
12 (Dkt. 12) is **GRANTED** and the claims alleged in Billing's complaint are **DISMISSED**  
13 **without prejudice**.

14 Dated this 27<sup>th</sup> day of February, 2012.

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17 BENJAMIN H. SETTLE  
18 United States District Judge  
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